



General Assembly

Amendment

January Session, 2007

LCO No. 7641

SB0070307641SD0

Offered by:

SEN. STILLMAN, 20th Dist.

SEN. GAFFEY, 13th Dist.

REP. DARGAN, 115th Dist.

To: Subst. Senate Bill No. 703

File No. 665

Cal. No. 521

**"AN ACT CONCERNING FIRE SAFE CIGARETTES AND APPEALS
OF DECISIONS BY LOCAL TREE WARDENS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2008*) As used in sections 1 to 6,
4 inclusive, sections 9 and 10 of this act, and sections 12-302 and 12-303
5 of the general statutes, as amended by this act:

6 (1) "Cigarette manufacturer's license" means a cigarette
7 manufacturer's license issued pursuant to section 12-285b of the
8 general statutes;

9 (2) "Cigarette" means any roll for smoking made wholly or in part of
10 tobacco, irrespective of size or shape and irrespective of whether the
11 tobacco is flavored, adulterated or mixed with any other ingredient,
12 where such roll has a wrapper or cover made of paper or any other

13 substance or material except tobacco;

14 (3) "Quality control and quality assurance program" means the
15 laboratory procedures implemented to ensure that operator bias,
16 systematic and nonsystematic methodological errors and equipment-
17 related problems do not affect the results of the testing;

18 (4) "Repeatability" means the range of values within which the
19 repeat results of cigarette test trials from a single laboratory will fall
20 ninety-five per cent of the time;

21 (5) "Brand family" has the same meaning as provided in section 4-
22 28k of the general statutes;

23 (6) "Holder" means the holder of a cigarette manufacturer's license;
24 and

25 (7) "Stamper" means a person licensed as a cigarette distributor
26 under chapter 214 of the general statutes and authorized to purchase
27 unstamped packages of cigarettes and required to affix Connecticut
28 cigarette tax stamps to such packages before such packages are
29 transferred out of such person's possession, unless such packages are
30 transferred to another stamper.

31 Sec. 2. (NEW) (*Effective July 1, 2008*) (a) On and after July 1, 2008, no
32 holder of a cigarette manufacturer's license shall sell cigarettes, or offer
33 cigarettes for sale, to consumers within this state, whether directly or
34 through a distributor, dealer, or similar intermediary or
35 intermediaries, unless such cigarettes comply with the requirements of
36 subsection (b) of this section.

37 (b) Cigarettes to be sold, or offered for sale, to consumers within this
38 state, whether directly or through a distributor, dealer, or similar
39 intermediary or intermediaries, shall: (1) Have been tested in
40 accordance with the test method specified in section 3 of this act and
41 meet the performance standard specified in section 3 of this act; (2)
42 have been listed in a written certification submitted to the Office of the

43 State Fire Marshal in accordance with section 4 of this act; and (3) be in
44 packages marked in accordance with section 6 of this act.

45 (c) If any holder violates the provisions of subsection (a) of this
46 section, the Commissioner of Revenue Services may suspend or revoke
47 the holder's cigarette manufacturer's license in the same manner as
48 provided in section 12-295 of the general statutes for the suspension or
49 revocation of the license of a dealer or distributor.

50 (d) Nothing in this section shall be construed to prohibit any holder
51 or any stamper from selling or offering for sale cigarettes not meeting
52 the requirements of subsection (b) of this section if such cigarettes are
53 or will be stamped for sale in another state or are packaged for sale
54 outside the United States.

55 Sec. 3. (NEW) (*Effective July 1, 2008*) (a) All testing by or on behalf of
56 a holder of a cigarette manufacturer's license or by or on behalf of the
57 Office of the State Fire Marshal to determine a cigarette's compliance
58 with the performance standard specified in this section shall be
59 conducted in accordance with the following requirements:

60 (1) Testing of cigarettes shall be conducted in accordance with the
61 American Society of Testing and Materials or "ASTM" standard E2187-
62 04, "Standard Test Method for Measuring the Ignition Strength of
63 Cigarettes" or a subsequent ASTM Standard Test Method for
64 Measuring the Ignition Strength of Cigarettes upon a finding by the
65 State Fire Marshal that such subsequent method does not result in a
66 change in the percentage of full-length burns exhibited by any tested
67 cigarette when compared to the percentage of full-length burns the
68 same cigarette would exhibit when tested in accordance with ASTM
69 standard E2187-04 and the performance standard in subdivision (3) of
70 this subsection;

71 (2) Testing shall be conducted on ten layers of filter paper;

72 (3) Not more than twenty-five per cent of the cigarettes tested in a
73 test trial in accordance with this section shall exhibit full-length burns.

74 Forty replicate tests shall comprise a complete test trial for each
75 cigarette tested;

76 (4) The performance standard required by this section shall only be
77 applied to a complete test trial;

78 (5) Written certifications shall be based upon testing conducted by a
79 laboratory that has been accredited pursuant to standard ISO or IEC
80 17025 of the International Organization for Standardization or such
81 other comparable accreditation standard as the Office of the State Fire
82 Marshal may require by regulation;

83 (6) Laboratories conducting testing in accordance with this section
84 shall implement a quality control and quality assurance program that
85 includes a procedure that will determine the repeatability of the testing
86 results. The repeatability value shall be no greater than 0.19. Such
87 program ensures that the testing repeatability remains within the
88 required repeatability value set forth in this subdivision for all test
89 trials used to certify cigarettes in accordance with this section and
90 section 4 of this act; and

91 (7) No additional testing under this section is required if cigarettes
92 are tested consistent with this section for any other purpose.

93 (b) Each cigarette that uses lowered permeability bands in the
94 cigarette paper to achieve compliance with the performance standard
95 set forth in this section shall have not less than two nominally identical
96 bands on the paper surrounding the tobacco column. At least one
97 complete band shall be located not less than fifteen millimeters from
98 the lighting end of the cigarette. For cigarettes on which the bands are
99 positioned by design, there shall be not less than two bands fully
100 located at least fifteen millimeters from the lighting end and ten
101 millimeters from the filter end of the tobacco column, or ten
102 millimeters from the labeled end of the tobacco column for nonfiltered
103 cigarettes.

104 (c) A holder of a cigarette manufacturer's license that manufactures

105 a cigarette that the State Fire Marshal determines cannot be tested in
106 accordance with the test method prescribed in subdivision (1) of
107 subsection (a) of this section may propose an alternate test method and
108 performance standard for the cigarette to the State Fire Marshal. Upon
109 approval and a determination by the State Fire Marshal that the
110 performance standard proposed by the holder is equivalent to the
111 performance standard prescribed in subdivision (3) of subsection (a) of
112 this section, the holder may employ such test method and performance
113 standard to certify such cigarette pursuant to section 4 of this act. If the
114 State Fire Marshal determines that another state has enacted reduced
115 cigarette ignition propensity standards that include a test method and
116 performance standard that are the same as those contained in this
117 section, and the State Fire Marshal finds that the officials responsible
118 for implementing those requirements have approved the proposed
119 alternative test method and performance standard for a particular
120 cigarette proposed by a holder as meeting the reduced cigarette
121 ignition propensity standards of that state's law or regulations under a
122 legal provision comparable to this section, then the State Fire Marshal
123 shall authorize that holder to employ the alternative test method and
124 performance standard to certify that cigarette for sale in this state,
125 unless the State Fire Marshal has a reasonable basis for deciding that
126 the alternative test should not be accepted under said sections. All
127 other applicable requirements of this section shall apply to the holder.

128 (d) Each holder of a cigarette manufacturer's license shall maintain
129 copies of the reports of all tests conducted on all cigarettes with respect
130 to which such holder has submitted written certification in accordance
131 with the provisions of section 4 of this act. Such holder shall provide
132 copies of the reports available to the Office of the State Fire Marshal
133 and to the office of the Attorney General upon written request. Any
134 holder that fails to provide such copies not later than sixty days after
135 receiving a written request shall be subject to a civil penalty not to
136 exceed ten thousand dollars for each day after the sixtieth day that the
137 holder does not make such copies available.

138 (e) The State Fire Marshal shall review the effectiveness of the

139 implementation of this section and shall submit a report to the joint
140 standing committee of the General Assembly having cognizance of
141 matters relating to public safety, in accordance with section 11-4a of
142 the general statutes, containing the State Fire Marshal's findings and, if
143 appropriate, recommendations for legislation to improve the
144 effectiveness of this section. Such report shall be submitted not later
145 than June 30, 2011, and every three years thereafter.

146 Sec. 4. (NEW) (*Effective July 1, 2008*) (a) Each holder of a cigarette
147 manufacturer's license shall submit to the Office of the State Fire
148 Marshal a written certification every three years attesting that: (1) Each
149 cigarette listed in the certification has been tested in accordance with
150 section 3 of this act; and (2) each cigarette listed in the certification
151 meets the performance standard set forth in section 3 of this act.

152 (b) The certification shall list the following information for each
153 cigarette listed: (1) Brand or trade name on the package; (2) style, such
154 as light or ultra light; (3) length in millimeters; (4) circumference in
155 millimeters; (5) flavor, if applicable; (6) filter or nonfilter; (7) package
156 description, such as a soft package or box; (8) marking pursuant to
157 section 6 of this act; (9) the name, address and telephone number of the
158 laboratory, if different than the holder that conducted the test; and (10)
159 the date that the testing occurred.

160 (c) For each cigarette listed in a certification, a holder shall pay to
161 the State Fire Marshal a fee of two hundred fifty dollars. The State Fire
162 Marshal may annually adjust such fee, in regulations adopted in
163 accordance with chapter 54 of the general statutes, to ensure that such
164 fee defrays the actual costs of the processing, testing, enforcement and
165 oversight activities of the State Fire Marshal in accordance with
166 sections 1 to 6, inclusive, of this act.

167 (d) If a holder has certified a cigarette pursuant to this section, and
168 thereafter makes any change to such cigarette that is likely to alter its
169 compliance with the reduced cigarette ignition propensity standards
170 required by section 3 of this act, the holder shall not sell that cigarette,

171 or offer that cigarette for sale, to consumers within this state, whether
172 directly or through a distributor, dealer or similar intermediary or
173 intermediaries, until the holder (1) retests the cigarette, in accordance
174 with the testing standards set forth in section 3 of this act, (2) maintains
175 records of such retesting as required by section 3 of this act, and (3)
176 finds that the cigarette meets the performance standards set forth in
177 section 3 of this act.

178 Sec. 5. (NEW) (*Effective July 1, 2008*) (a) Not later than July 1, 2008,
179 the Office of the State Fire Marshal shall develop and make available
180 for public inspection, on its web site and in such other forms as the
181 State Fire Marshal deems appropriate, a Connecticut Fire Safe
182 Cigarette Directory listing of all holders that have provided current
183 certifications conforming to the requirements of section 4 of this act
184 and all cigarettes that are listed in such certifications. The State Fire
185 Marshal shall update the directory as necessary in order to correct
186 mistakes and to add or remove a holder or cigarette to keep the
187 directory current and in conformity with the requirements of sections 1
188 to 6, inclusive, of this act.

189 (b) The State Fire Marshal shall not include or retain in such
190 directory the cigarette of any holder if the holder: (1) Has failed to
191 provide the required certification, (2) has failed to provide copies of
192 reports, as required by subsection (d) of section 3 of this act, and more
193 than sixty days have elapsed since the holder received the written
194 request therefor, or (3) has provided a certification that the State Fire
195 Marshal determines is not in compliance with the provisions of section
196 4 of this act, unless such violation has been remedied to the satisfaction
197 of the State Fire Marshal.

198 (c) Any holder aggrieved by a determination by the State Fire
199 Marshal not to include a cigarette in the directory maintained pursuant
200 to this section or to remove such cigarette from the directory may
201 apply, not later than thirty days after such determination, to the
202 superior court for the judicial district of Hartford, which court may
203 grant appropriate relief.

204 (d) If the State Fire Marshal determines that a holder of a cigarette
205 manufacturer's license has violated a provision of this section or
206 section 4 of this act, the Attorney General, upon referral from the State
207 Fire Marshal, may bring a civil action in the superior court for the
208 judicial district of Hartford to recover a civil penalty of not more than
209 ten thousand dollars per violation and such injunctive and equitable
210 relief as the court deems appropriate.

211 Sec. 6. (NEW) (*Effective July 1, 2008*) No holder of a cigarette
212 manufacturer's license shall sell cigarettes, or offer to sell cigarettes, to
213 consumers within this state, whether directly or through a distributor,
214 dealer or similar intermediary or intermediaries, unless the holder has
215 placed on each individual package of such cigarettes the letters "FSC",
216 which signifies Fire Standards Compliant. Such letters shall appear in
217 eight-point type and be permanently printed, stamped, engraved or
218 embossed on the package at or near the UPC Code, if such code is
219 present.

220 Sec. 7. Subsection (b) of section 12-302 of the general statutes is
221 repealed and the following is substituted in lieu thereof (*Effective July*
222 *1, 2008*):

223 (b) No distributor shall affix, or cause to be affixed, to a package of
224 cigarettes sold or distributed by such distributor, stamps, if the
225 package (1) is not labeled in conformity with the requirements of the
226 federal Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC
227 1331 et seq., or any other federal requirement for the placement of
228 labels, warnings and other information, applicable to packages of
229 cigarettes that are intended to be sold within the United States; (2)
230 bears any label or notice prescribed by the United States Department
231 of Treasury to identify cigarettes intended for export and exempt from
232 tax by the United States pursuant to 26 USC 5704(b), including "For
233 export only", "U.S. Tax-exempt", "For use outside U.S." or similar
234 wording indicating that the manufacturer did not intend that the
235 product be sold within the United States, including any notice or label
236 described in 27 CFR 290.185; (3) has been imported into the United

237 States after January 1, 2000, in violation of 26 USC 5754 or regulations
238 adopted thereunder; (4) in any way violates federal trademark or
239 copyright law or if all federal taxes due have not been paid on the
240 cigarettes; (5) has been modified or altered by a person other than the
241 manufacturer or person specifically authorized by the manufacturer,
242 including modification or alteration by the placement of a sticker or
243 label to cover information, including the wording, labels or warnings
244 described in subdivision (1) or (2) of this subsection, on the package;
245 [or (6) has been manufactured or sold by a tobacco product
246 manufacturer that is in violation of subdivision (2) of subsection (a) of
247 section 4-28i or section 4-28j and the distributor has been notified by
248 the commissioner of such violation. Notwithstanding the provisions of
249 section 12-15, the commissioner may disclose to the public the name of
250 any person who has violated the provisions of section 4-28i or 4-28j]
251 (6) is of a brand family or of a tobacco product manufacturer not
252 included in the Connecticut Tobacco Directory maintained by the
253 Commissioner of Revenue Services pursuant to section 4-28m; or (7) is
254 of cigarettes not included in the Connecticut Fire Safe Cigarette
255 Directory maintained by the State Fire Marshal pursuant to section 5 of
256 this act.

257 Sec. 8. Subsection (b) of section 12-303 of the general statutes is
258 repealed and the following is substituted in lieu thereof (*Effective July*
259 *1, 2008*):

260 (b) No dealer shall affix, or cause to be affixed, to a package of
261 cigarettes sold or distributed by such dealer, stamps, if the package (1)
262 is not labeled in conformity with the requirements of the federal
263 Cigarette Labeling and Advertising Act, 79 Stat. 282, 15 USC 1331 et
264 seq., or any other federal requirement for the placement of labels,
265 warnings and other information, applicable to packages of cigarettes
266 that are intended to be sold within the United States; (2) bears any
267 label or notice prescribed by the United States Department of Treasury
268 to identify cigarettes intended for export and exempt from tax by the
269 United States pursuant to 26 USC 5704(b), including "For export only",
270 "U.S. Tax-exempt", "For use outside U.S." or similar wording indicating

271 that the manufacturer did not intend that the product be sold within
272 the United States, including any notice or label described in 27 CFR
273 290.185; (3) has been imported into the United States after January 1,
274 2000, in violation of 26 USC 5754 or regulations adopted thereunder;
275 (4) in any way violates federal trademark or copyright law or if all
276 federal taxes due have not been paid on the cigarettes; (5) has been
277 modified or altered by a person other than the manufacturer or person
278 specifically authorized by the manufacturer, including modification or
279 alteration by the placement of a sticker or label to cover information,
280 including the wording, labels or warnings described in subdivision (1)
281 or (2) of this subsection, on the package; [or (6) has been manufactured
282 or sold by a tobacco product manufacturer that is in violation of
283 subdivision (2) of subsection (a) of section 4-28i or section 4-28j and the
284 dealer has been notified by the commissioner of such violation.
285 Notwithstanding the provisions of section 12-15, the commissioner
286 may disclose to the public the name of any person who has violated
287 the provisions of section 4-28i or 4-28j] (6) is of a brand family or of a
288 tobacco product manufacturer not included in the Connecticut
289 Tobacco Directory maintained by the Commissioner of Revenue
290 Services pursuant to section 4-28m; or (7) is of cigarettes not included
291 in the Connecticut Fire Safe Cigarette Directory maintained by the
292 State Fire Marshal pursuant to section 5 of this act.

293 Sec. 9. (NEW) (*Effective July 1, 2008*) The State Fire Marshal shall
294 implement sections 1 to 6, inclusive, of this act, in accordance with the
295 New York fire safety standards, as amended, as said standards are
296 embodied in New York Executive Law, Section 156-c, as amended and
297 Part 429 of Title 19 New York Codes, Rules, and Regulations, as
298 amended. The State Fire Marshal may adopt regulations, in accordance
299 with the provisions of chapter 54 of the general statutes, to implement
300 the provisions of sections 3 to 5, inclusive, of this act, and any such
301 regulations shall be consistent with said New York fire safety
302 standards.

303 Sec. 10. (NEW) (*Effective July 1, 2008*) There is established, within the
304 General Fund, a separate, nonlapsing account to be known as the fire

305 safety standard and firefighter protection act enforcement account. The
 306 account shall contain all certification fees submitted by holders in
 307 accordance with section 4 of this act, any civil penalties imposed in
 308 accordance with subsection (d) of section 3 of this act or subsection (d)
 309 of section 5 of this act, and any other moneys required by law to be
 310 deposited in the account. The proceeds of the account shall be used by
 311 the State Fire Marshal solely to fund the processing, testing and
 312 administrative activities specified in sections 3, 4 and 5 of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	New section
Sec. 2	<i>July 1, 2008</i>	New section
Sec. 3	<i>July 1, 2008</i>	New section
Sec. 4	<i>July 1, 2008</i>	New section
Sec. 5	<i>July 1, 2008</i>	New section
Sec. 6	<i>July 1, 2008</i>	New section
Sec. 7	<i>July 1, 2008</i>	12-302(b)
Sec. 8	<i>July 1, 2008</i>	12-303(b)
Sec. 9	<i>July 1, 2008</i>	New section
Sec. 10	<i>July 1, 2008</i>	New section